

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL PATTON,

Plaintiff,

v.

DENBERG, et al.,

Defendants.

No. 2:24-cv-2982 SCR P

ORDER

Plaintiff is a state prisoner proceeding pro se in an action brought under 42 U.S.C. § 1983. Plaintiff asks the court to appoint counsel. District courts lack authority under 28 U.S.C. § 1915 to require counsel to represent indigent prisoners in section 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In exceptional circumstances, the court may request an attorney to voluntarily represent such a plaintiff. See 28 U.S.C. § 1915(e)(1); Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). When determining whether “exceptional circumstances” exist, the court must consider plaintiff’s likelihood of success on the merits as well as the ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved. Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009) (district court did not abuse discretion in declining to appoint counsel). The burden of demonstrating exceptional circumstances is on the plaintiff. Id. Circumstances common to most prisoners, such as lack of legal education and limited law library access, do not establish exceptional circumstances that warrant a request for voluntary assistance of counsel.

1 In the present case, the court has not yet screened plaintiff's complaint so has not
2 determined whether there is a likelihood plaintiff may succeed on the merits. Therefore,
3 plaintiff's motion for the appointment of counsel is premature.

4 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for the appointment of
5 counsel (ECF No. 3) is denied without prejudice.

6 Dated: November 22, 2024

7
8
9 

10 SEAN C. RIORDAN
11 UNITED STATES MAGISTRATE JUDGE
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28